

**MEMO ENDORSED**

DO #:

DATE FILED: 8/12/08

Raul Morales

Petitioner,

07 CIV. 10393 (RMB) (JCF)

02 Cr. 335-01 (RMB)

- against -

United States of America  
Respondent.Motion for Reconsideration of the  
Magistrates report and Recommendation  
dated 7/18/2008 pursuant to Rule 59(c)

Comes Now Petitioner, Raul Morales, pro se, in want of Counsel who respectfully moves this Honorable Court to reconsider its report and recommendation dated 7/18/08, pursuant to Rule 59(c).

This Motion is filed pro se, Petitioner requests that his pleadings be liberally construed in accordance with Haines v. Kerner 405 U.S. 519 (1972). Since petitioner has had no formal legal training in matters of Law.

Petitioner, request that his motion be granted for the following reasons:

1. On July 14, 2008, Petitioner placed a Certified legal package with returnable in the Institutional Mail to be delivered to Magistrate Judge: James C Francis IV at 500 Pearl Street N.Y. N.Y. 10007.

2. Base on Houston v Lack, 487 U.S. 266, 108 S.Ct. 2379, 101 L.Ed 2 245 (1988) (holding that pro se prisoner's notice of Appeal was "filed" within the meaning of the Federal Rule of Appellant procedure when the notice was delivered to the Prison Authorities. See, Exhibit A Certified receipt and Exhibit B Reply brief.

3. The Magistrate Report and Recommendation was decided and filed on July 18, 2008, without considering Petitioner's reply brief which was timely filed on July 14, 2008, to the Government's response brief.

4. This report and recommendation is highly prejudicial to petitioner who in his reply brief has included affidavits and declaration in support of his arguments.

Wherefore, Petitioner, prays that this Honorable Court grant his motion for reconsideration or any other relief it deems just and proper.

Respectfully Submitted

Raul Morales

7/28/08

Application denied. Petitioner's reply was received and considered in connection with the Report and Recommendation.

SO ORDERED

James C. Francis IV  
USMJ